

REMARKS

Claims 1-40 are now pending in the application. Pending claims 1-7, 9-11, 13, 14, 19-27, 29-37, 39, and 40 stand rejected under 35 U.S.C. § 102 (b). The following remarks are considered by Applicants to overcome each rejection raised by the Examiner and to place the application in condition for allowance. An early Notice of Allowance is therefore requested.

I. Rejection Of Pending Claims 1-7, 9-11, 13, 14, 19-27, 29-37, 39, and 40 Under 35 U.S.C. § 102 (e)

The Examiner has rejected claims 1-7, 9-11, 13, 14, 19-27, 29-37, 39, and 40 under 35 U.S.C. § 102 (e) as being anticipated by Mourou et al. (U.S. Patent No. 5,656,186). Applicants respectfully traverse this rejection.

A. Relevant Law

"A claim is anticipated if each and every limitation is found either expressly or inherently in a single prior art reference." *Bristol-Myers Squibb v. Ben Venue*, 246 F.3d 1368, 1374 (Fed. Cir. 2001). Identity of invention requires that a prior reference disclose to one of ordinary skill in the art all elements and limitations of the patent claim. *Scripps Clinic v. Genentech*, 927 F.2d 1565, 1576 (Fed. Cir. 1991). Absence from the reference of any claimed element negates anticipation. *Kloster Speedsteel AB v. Crucible, Inc.*, 230 USPQ 81 (Fed. Cir. 1986).

B. Summary of Cited References

Mourou is directed to a method for laser induced breakdown of a material with a pulsed laser beam where the material is characterized by a relationship of fluency breakdown threshold versus laser beam pulse width that exhibits an abrupt, rapid and distinct change or

at least a clearly detectable and distinct change in slope at a predetermined laser pulse width value. More specifically, Mourou discloses a method for generating a beam of laser pulses in which each pulse has a pulse width equal to or less than the predetermined laser pulse width value. The beam is focused to a point at or beneath the surface of a material where laser induced breakdown is desired.

C. Argument

The Examiner asserts that Mourou discloses an apparatus and method of use for applying laser beams onto a tissue, the apparatus comprising a pulsed laser and a beam scanning means wherein the laser pulse has a wavelength of between 770nm to 800nm, a pulse width of 10 to 100 fs, pulse energy of 0.001 to 10 nJ, and frequency of 250 to 350 KHz. Applicants respectfully disagree with the Examiner's analysis.

It is respectfully submitted that Mourou does not teach or suggest an optical path including a scanning head that is operably coupled to receive laser light from the pulsed laser and operable to scan an output light pattern suitable to sculpt tissue for a surgical procedure using at least 100000 pulses in less than ten seconds. More specifically, Mourou does not teach or suggest a scanning head and/or a scanning method as recited in the claims 1, 11, 21, and 31. Mourou merely discloses an x-y translation stage scanning means. The x-y translation stage scanning is not the same as the claimed scanning head and/or scanning method. The scanning means provided in Mourou does not provide the speed and precision of the claimed invention. (See Mourou, Column 7 Lines 20-22). The present invention provides a high repetition rate of the laser and combines it with the speed and precision of a scanner head, which produces fast precise cuts. (See Specification, Page 16 Lines 1-19). Although Mourou discloses an x-y translation stage scanning means, Mourou does not teach or suggest a scanning head and/or scanning method that scans an output light pattern suitable

to sculpt tissue for a surgical procedure using at least 100000 pulses in less than ten seconds. Therefore, it is respectfully submitted that Mourou fails to teach or suggest all the features recited in claims 1, 11, 21, and 31. Accordingly, Applicants request the withdrawal of the rejection of claims 1, 11, 21, and 31 under 35 U.S.C. 102(b).

Claims 2-10, 12-20, 22-30, and 32-40 are dependent upon independent claims 1, 11, 21, and 31. It is submitted that these claims are patentable for at least the reasons mentioned above. Therefore, Applicants request the withdrawal of the rejection of claims 2-7, 9, 10, 12, 13, 14, 19-20, 22-27, 29, 30, 32-37, 39, and 40.

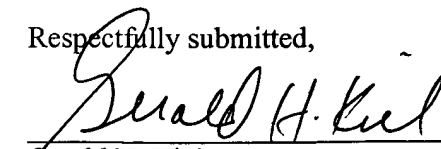
II. Allowable Subject Matter

Applicants gratefully acknowledge the Examiner's notation on page 3 of the office action that claims 8, 12, 15-18, 28, and 38 would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

III. Conclusion

For the reasons presented above, claims 1-40 all the claims pending in the application, are believed by Applicants to define patentable subject matter and should be passed to issue at the earliest possible time. A Notice of Allowance is requested.

Respectfully submitted,



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